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OFFICE OF PETITIONS

In re Application of :
Martin Linsell :
Application No. 09/847,060 :
Filed: May 1, 2001 :
Attorney Docket No. P-090-R :
: ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN PATENT (37 C.F.R. § 1.705)," filed January 5, 2005. Patentee requests that the patent term adjustment indicated in the patent be corrected from four hundred fifty-four (454) days to five hundred seventy-four (574) days.

The request for reconsideration of the patent term adjustment indicated in the patent is GRANTED.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred seventy-four (**574**) days.

On December 14, 2004, the application matured into U.S. Patent No. 6,831,150, with a revised patent term adjustment of 454 days. On January 5, 2005, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 574. Patentee disputes the reduction of 120 days for the filing of an Information Disclosure Statement (IDS) after the mailing of the notice of allowance. Patentee states that the IDS was originally filed prior to the mailing of the notice of allowance, and that a replacement copy was submitted on February 26, 2004 at the request of the examiner.

Having reviewed the record, it is concluded that patentee's argument is persuasive. The basis for the 120 day reduction is the refiling of the IDS on February 26, 2004. The Supplemental IDS is a true and accurate copy of the IDS evidenced to have been filed by applicant on February 12, 2002. Under the circumstances, the reduction of 120 days, pursuant to § 1.704(c)(10), is not warranted.

In view thereof, the patent should have issued with a patent term adjustment of five hundred seventy-four (574) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The decision mailed August 10, 2004 stated that applicant may seek reconsideration on the basis that the Office failed to issue the patent within 3 years without payment of an additional fee. Pursuant to § 1.705(d), patentee has sought reconsideration on another basis. § 1.705(d) requires payment of the fee set forth in § 1.18(e).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **FIVE HUNDRED SEVENTY-FOUR (574)** days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

*Karyn A. Ferriter
for*

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction